

California Regional Water Quality Control Board
North Coast Region

Complaint No. R1-2001-76

For
Administrative Civil Liability
In The Matter Of

FORSYTHE PACIFIC
(MAYACAMA GOLF CLUB)

Sonoma County

The Executive Officer of the California Regional Water Quality Control Board, North Coast Region (hereinafter the Regional Water Board), hereby gives notice that:

1. The Forsythe Pacific (Mayacama Golf Club), (hereinafter the Discharger) is constructing an 18-hole golf course, wastewater treatment facility, and residential community on 675 acres at 500 Shiloh Meadow Road, Santa Rosa, California. Storm water discharges associated with the construction of the golf course was permitted under the National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity (General Permit), Water Quality Order No. 99-08-DWQ. This permit prohibits the discharge of materials other than storm water.
2. The Discharger violated California Water Code Section 13376 for which the Regional Water Board may impose civil liability under Section 13385 of the California Water Code.
3. The following facts are the basis for the alleged violations in this matter:
 - a. On September 26, 2000 Regional Water Board Staff (Staff) responded to a complaint from a resident living on Mark West Springs Road that there was a large amount of sediment-laden water flowing into Mark West Creek from the North Creek tributary. The resident stated that construction of the Mayacama Golf Course was occurring directly upslope of the discharge location. Staff arrived at the golf course and were met by the site superintendent. Staff drove around the site with the superintendent, but did not see any signs of an illicit discharge. Construction personnel denied that any work was taking place near drainages.
 - b. Staff left the golf course and drove to the area where North Creek was discharging into Mark West Creek. It was estimated that the flow coming out of North Creek was flowing at about 1-2 cfs, and that the average wetted width of this creek was about 2 meters. Additionally it was estimated the flow in Mark West Creek to be 10-15 cfs with a wetted width of approximately 5 meters. The flows from North Creek had apparently raised the level of Mark West Creek 4-6 inches at some point during the discharge, as was apparent by the water line on the bank. Staff observed that Mark West Creek was running highly turbid. Most sediment appeared to be suspended in the flows with some sediment depositions found in pool areas.
 - c. Samples taken on September 26, 2000 to document the discharge showed the following results:
Sample #1 (20 feet downstream of the discharge from North Creek): 520 NTU

Sample #2 (20 feet upstream of the discharge from North Creek): 0.4 NTU

Sample #3 (North Creek 30 feet above the point of confluence with Mark West): +1000 NTU *NOTE: "HACH 2100A Turbidimeter" maximum detection limit is 1000 NTU

- d. Staff reinspected the golf course with this new information to seek out the source of this discharge. Staff drove around the golf course, and were directed by some workers on site to an area which Staff was not shown earlier, that had recently experienced a break in an irrigation pipeline. The area of the golf course where the break occurred had not been covered with sod, and therefore, the discharge had carried sand, silt and soil into North Creek that was approximately 20 yards away. Staff measured about 1.5-2 feet of sediment deposited in the bottom of the channel (North Creek). Some standing water was found just below this discharge and a sample (#4) was taken later showing the turbidity to be 600 NTU. The release had created several rills in the dirt and sand as the water made its way to North Creek.
- e. The site superintendent arrived at the scene of the discharge shortly after Staff did and stated that he had not been aware of this problem earlier in the day (during our initial visit). He stated that the irrigation lines would soon be attached to a central station, which could automatically sense any pressure drops and shut off flow to those lines. The sensors were not online yet, and therefore this problem had not been detected.
- f. Sampling done in Mark West Creek on September 27, 2000 showed the following results:
Sample #1 (upstream of discharge): .27 NTU
Sample #2 (taken in North Creek): 92 NTU
Sample #3 (taken downstream of discharge): 14 NTU
- g. On October 27, 2000, the Executive Officer sent a letter to the Discharger requesting information under California Water Code section 13267. This letter asked for a description of the circumstances surrounding the pipeline malfunction, including the amount of water discharged from the pipeline into North Creek.
- h. On November 22, 2000, a response to the Executive Officer's 13267 letter was received from the consultant for the Discharger. The reply stated that the duration of the discharge was approximately 20 minutes. During this time it was estimated, 3,800 gallons of sediment-laden water was released. The sediment-laden water flowed over bare soil and sand on the ground and into North Creek, a tributary to Mark West Creek.
- i. On December 20, 2000, a meeting was held between Staff and the Discharger to hear about improvements that have been made at the golf course to ensure that a similar incident does not occur in the future. The Discharger stated that all joints were reinforced after the release to prevent further mishaps. Staff requested a report, which stated all of the improvements made by the Discharger as a result of the pipeline break. At the conclusion of this meeting it was decided that Staff would visit the golf course and witness to the excavation of a reinforced joint.
- j. On February 7, 2001, staff visited the golf course to inspect reinforcement efforts made to the joints of their irrigation pipelines. The Discharger unearthed a coupling with an excavator, and Staff observed that the joint had been reinforced by a coupling as well as having cement poured all around the joint to prevent any failures. The joint appeared to be very well protected. Staff asked the Discharger to submit a bill and change work order to show that these extra measures had been performed throughout the entire golf course.
- k. On February 13, 2001 the Regional Water Board received the report requested in the December 20, 2000 meeting. This letter states that additional measures taken to

prevent further incidents included a central control station with an auto-dialer, which will automatically call the Discharger if there is a problem with the system. Also more isolation valves were added to shut down smaller segments of the pipeline in case of an emergency. Finally, joint restraints were installed around mechanical fittings, as was seen on our February 7th visit to the golf course.

4. Section 13385(a) of the California Water Code provides for the imposition of civil liabilities against dischargers who violate any order or prohibition issued by the Regional Water Board. Section 13385(c) defines the amount of civil liability that may be imposed by the Regional Water Board as up to \$10,000 per day of violation and \$10 per gallon of waste discharged and not cleaned up in excess of 1,000 gallons. The civil penalty that could be imposed against the Mayacama Golf Course in this matter is calculated as follows:

One Day of discharge violations plus the volume of water and sediment
discharged into North Creek in excess of 1,000 gallons on September 26, 2000:

One Day of Discharge X \$10,000 per day = \$10,000

(3,800 gallons – 1,000gallons) X \$10 per gallon = \$28,000

Total possible Administrative Civil Liability = \$38,000

5. In determining the amount of any civil liability pursuant to California Water Code Section 13327, the Regional Water Board took into account the nature, circumstances, extent and gravity of the violation; whether the Discharger has the ability to pay; whether the Discharger has any prior history of violations; the degree of culpability; whether there were any economic savings as a result of the violation; any voluntary cleanup efforts undertaken by the violator; efforts made to ensure another incident does not occur in the future; and such other matters as justice may require:

- a. Nature, Circumstances, Extent, and Gravity of the Violations

The waterline break at this site resulted in the discharge of fine, suspended sediment into Mark West Creek. Although the water release was short-term, sediment continued to flow into downstream reaches of Mark West Creek until the following day. According to a January 25, 2001 letter from the National Marine Fisheries Service (NMFS), two federally listed endangered species (Central California Coast steelhead and Central California Coast coho salmon) are likely to be present in this reach of Mark West Creek. No fish kill was observed in the streams and the After reviewing turbidity data collected by Regional Board staff, NMFS stated in their letter the following: “The level of turbidity likely experienced by coho and steelhead downstream of the discharge was well above NTU levels known to cause the following adverse effects: reduced feeding, reduced food conversion, reduced growth, stress, avoidance and displacement”. “The amount of sedimentation observed in Mark West Creek is likely to reduce growth, and thus the survival, of coho salmon and steelhead in the area affected by sediment deposition by reducing their available food supply for the remainder of the summer rearing season.”

Consideration of the Nature, Circumstances, Extent, and Gravity of the Violations does not provide reason for reducing the amount of potential liability.

b. Ability to Pay

The Discharger has not submitted any information to the Regional Water Board indicating that they are in a financial position that would prevent them from paying an amount up to the maximum possible liability.

Consideration of the Discharger's Ability to Pay does not provide a reason for reducing the amount of possible liability.

c. Prior History of Violations

The Discharger had no previous history of violations

Consideration of the History of Violations does provide a reason for reducing the amount of potential liability.

d. Degree of Culpability

The Discharger had filed for coverage under the State General Permit for Discharges of Storm Water from Construction Projects and therefore, was responsible for the construction project.

Consideration of the Degree of Culpability does not provide a reason for reducing the amount of potential liability.

d. Economic Benefit or Savings

The violations were not the result of any economic savings and no economic benefits were obtained from the violation.

Consideration of the Economic Benefit or Savings does provide a reason for reducing the amount of potential liability.

6. The issuance of this Complaint is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) pursuant to Title 14, California Code of Regulations Section 15308 and 15321(a)(2), and California Water Code Section 13389.
7. Based on a review of the facts associated with this violation and consideration of the factors contained in 5. above, the Executive Officer of the Regional Water Board is issuing this Complaint with a proposed administrative civil liability in the amount of \$12,000.

Waiver of Hearing

8. You may waive the right to a future hearing. If you wish to waive the hearing, please check and sign the waiver and return it together with a cashier's check or money order, made payable to the California Regional Water Quality Control Board, North Coast Region for the amount of civil liability proposed in paragraph 7 above within 15 days of receipt of this complaint to the California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, CA 95403. This settlement will not become effective until after a 30-day public comment period.

Ordered by _____
Lee A. Michlin
Executive Officer

July 6, 2001